UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- x

UNITED STATES OF AMERICA, 13 cr. 428 (PAE)

- against -

RAYMOND KORNEGAY,

Defendant.

- -x

MOTION IN LIMINIE

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January 6, 2014

Hon. Paul A. Engelmayer
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *United States v. Raymond Kornegay,* 13 cr. 428 (PAE)

Dear Judge Engelmayer:

I represent Raymond Kornegay in the above referenced matter. Mr. Kornegay is scheduled to start trial on January 13, 2014. This is the defendant's motion in liminie application. The defense requests the production of 3500 material and the Government's witness list one (1) week before the start of trial. The defense also request the production of all of the Government's exhibits by Thursday, January 9, 2014. Furthermore, the defense requests that a duplicate copy of the 3500 material, the witness list and the Government's exhibits be sent directly to the defendant at the Metropolitan Detention Center (MDC).

DISCUSSION

A criminal defendant is not entitled to certain discovery material until after a witness has completed direct examination by the Government.[1] This will put Mr. Kornegay at a great disadvantage. He will not be entitled to any of the statements and reports generated by the Government's witnesses until after they testify. It would frustrate his attempts to fashion a defense. It would limit his ability to investigate any new information discovered within the material in a timely fashion. Finally, it would limit his ability to adequately prepare for the cross examination of the Government's witnesses. It is very likely that Mr. Kornegay would request a continuance in the middle of the trial in order to adequately prepare for cross examination of one (1) or more witnesses.

The defense requests the "3500" material and witness list one (1) week prior to the start of the trial. This will give the defense adequate time to prepare for the cross examination of the Government's witnesses. It will also give us an adequate opportunity to follow up on any leads or issues generated by the information contained in the documents. Finally, a review of the Government exhibits will allow the defense to prepare for cross examination and also help organize resources for the trial.

It is important that Mr. Kornegay have his own set of these documents. He has been actively involved in the planning of a defense in this case. Having these materials will aid him in suggesting ideas and strategies for the defense. It will also aid him if he decided to testify in this case.

Sincerely,

[1] 18 U.S.C. 3500.

s/Marlon G. Kirton

Marlon G. Kirton, Esq.

cc: Andrea Griswold, Assistant United States Attorney (via electronic mail)
Howard Master, Assistant United States Attorney (via electronic mail)